



February 17, 2004

ENGROSSED HOUSE BILL No. 1266

DIGEST OF HB 1266 (Updated February 16, 2004 11:50 am - DI 75)

Citations Affected: IC 5-22.

Synopsis: Internet based public purchasing. Permits a purchasing entity to conduct on-line reverse auctions for purchases of supplies. Authorizes counties, municipalities, and school corporations to purchase supplies through the internet or by means of a reverse auction. Establishes procedures governing the conduct of an on-line reverse auction.

Effective: Upon passage.

Ayres, Hasler, Thomas, Austin

(SENATE SPONSOR — RIEGSECKER)

January 15, 2004, read first time and referred to Committee on Technology, Research and Development.

January 26, 2004, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.

January 29, 2004, amended, reported — Do Pass.

February 4, 2004, read second time, amended, ordered engrossed.

February 5, 2004, engrossed. Read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 10, 2004, read first time and referred to Committee on Economic Development and Technology.

February 16, 2004, amended, reported favorably — Do Pass.

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February 17, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1266

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-22-2-13.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 13.5. "Internet" means the international**
- 4 **computer network of both federal and nonfederal interoperable**
- 5 **packet switched data networks, including the graphical**
- 6 **subnetwork called the world wide web.**
- 7 SECTION 2. IC 5-22-2-13.7 IS ADDED TO THE INDIANA CODE
- 8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 9 UPON PASSAGE]: **Sec. 13.7. "Internet purchasing site" means an**
- 10 **open and interactive electronic environment that is designed to**
- 11 **facilitate the purchase of supplies by means of the Internet.**
- 12 SECTION 3. IC 5-22-2-28.5 IS ADDED TO THE INDIANA CODE
- 13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 14 UPON PASSAGE]: **Sec. 28.5. "Reverse auction" means a method**
- 15 **of purchasing in which offerors submit offers in an open and**
- 16 **interactive environment through the Internet.**
- 17 SECTION 4. IC 5-22-7-5, AS AMENDED BY P.L.31-2002,

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SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the electronic gateway administered by the intelenet commission.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:

(1) the electronic gateway administered by the intelenet commission as determined by the commission; or

(2) **any other electronic means available to the political subdivision.**

SECTION 5. IC 5-22-10-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) This section applies to:

(1) municipalities;

(2) counties; and

(3) school corporations.

(b) A purchasing agency may purchase supplies:

(1) through the Internet; or

(2) by means of a reverse auction;

in accordance with written policies for the operation of the purchasing agency's Internet purchasing site.

(c) The purchasing agency must adopt written policies for the operation of the purchasing agency's Internet purchasing site, including policies for:

(1) transmitting:

(A) notices;

(B) solicitations; and

(C) specifications;

(2) receiving offers;

(3) making payments;

(4) protecting:

(A) the identity of an offeror; and

(B) the amount of an offer until the time fixed for the opening of offers;

(5) for a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing;

(6) establishing the deadline by which offers must be received and will be considered to be open and available for public inspection; and

(7) establishing the procedure for the opening of offers.

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1 **(d) IC 5-22-16-6(a)(2) does not apply to a reverse auction.**
2 **SECTION 6. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1266, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 5 through 6.

Page 1, line 7, delete "2." and insert "1."

Page 1, line 9, delete "3." and insert "2."

Page 1, line 11, after "supplies" delete "and".

Page 1, line 12, delete "services".

Page 1, between lines 15 and 16, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "purchasing agency" has the meaning set forth in IC 5-22-2-25."

Page 1, line 16, delete "shall" and insert "may".

Page 2, line 1, after "for" insert "the".

Page 2, line 1, after "sites" insert ":

(A)"

Page 2, delete lines 2 through 3, begin a new line triple block indented and insert:

"(i) a purchasing agency;

(ii) a cooperative purchasing organization described in IC 5-22-4-7; and

(iii) the public;"

Page 2, line 4, before "to" double block indent.

Page 2, line 4, after "IC 5-22;" insert "and

(B) by other entities to facilitate purchases and sales conducted by other entities, if considered beneficial by the department;"

Page 2, line 33, delete "department shall cooperate with the following" and insert **"following shall cooperate with the department"**.

Page 2, between lines 36 and 37, begin a new line block indented and insert:

"(3) The attorney general.

(4) The auditor of state."

Page 2, line 40, delete "4-13-17-3." and insert **"4-13-17-2."**

Page 3, line 24, delete "4-13-17-3." and insert **"4-13-17-2."**

Page 3, line 29, delete "or services".

Page 4, line 11, delete "municipality" and insert **"governmental body"**.

Page 4, delete lines 17 through 18, begin a new paragraph and

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insert:

"Sec. 1. As used in this chapter, "purchasing entity" means an entity that may use an Internet purchasing site under rules adopted under IC 4-13-17-4."

Page 4, delete lines 19 through 20, begin a new paragraph and insert:

"Sec. 2. (a) A purchasing entity".

Page 4, line 21, delete "formed by two (2) or more municipalities,".

Page 4, line 22, delete "property, supplies, and services" and insert **"property and supplies"**.

Page 4, line 26, delete "agency" and insert **"entity"**.

Page 4, line 30, delete "agency" and insert **"entity"**.

Page 4, line 30, delete ":" and insert **"that:"**

Page 4, line 31, delete "that".

Page 4, line 31, delete "agency's" and insert **"entity's"**.

Page 4, line 32, after "process" insert **", if required"**.

Page 4, line 33, delete "that".

Page 4, line 36, delete "that ".

Page 4, line 36, delete "agency" and insert **"entity"**.

Page 4, line 39, delete "agency" and insert **"entity"**.

Page 5, line 3, delete "agency" and insert **"entity"**.

Page 5, line 6, delete "agency" and insert **"entity"**.

Page 5, line 19, delete "agency" and insert **"entity"**.

Page 6, delete lines 3 through 5, begin a new line block indented and insert:

"(2) provide access to Internet purchasing sites for the purposes of IC 4-13-17 and IC 5-22-7.5, both as added by this act, before January 1, 2005."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1266 as introduced.)

HASLER, Chair

Committee Vote: yeas 14, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1266, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 30 through 39, begin a new paragraph and insert:

"SECTION 4. IC 5-22-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.**

SECTION 5. IC 5-22-2-13.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.7. "Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet."**

SECTION 6. IC 5-22-2-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28.5. "Reverse auction" means a method of purchasing in which offerors submit offers in an open and interactive environment through the Internet."**

Page 4, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 7. IC 5-22-7-5, AS AMENDED BY P.L.31-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.**

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the electronic gateway administered by the intelnet commission.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:

- (1) the electronic gateway administered by the intelnet commission as determined by the commission; or**
- (2) any other electronic means available to the political subdivision."**

Page 5, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 8. IC 5-22-10-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21. (a) This section applies to:**

- (1) municipalities; and**

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(2) counties.

(b) A purchasing agency may purchase supplies:

(1) through the Internet; or

(2) by means of a reverse auction;

in accordance with written policies for the operation of the purchasing agency's Internet purchasing site.

(c) The purchasing agency must adopt written policies for the operation of the purchasing agency's Internet purchasing site, including policies for:

(1) transmitting:

(A) notices;

(B) solicitations; and

(C) specifications;

(2) receiving offers;

(3) making payments;

(4) protecting:

(A) the identity of an offeror; and

(B) the amount of an offer until the time fixed for the opening of offers;

(5) for a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing;

(6) establishing the deadline by which offers must be received and will be considered to be open and available for public inspection; and

(7) establishing the procedure for the opening of offers.

(d) IC 5-22-16-6(a)(2) does not apply to a reverse auction."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1266 as printed January 27, 2004.)

CRAWFORD, Chair

Committee Vote: yeas 27, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1266 be amended to read as follows:

Page 2, line 7, after "purchases" insert "**of property and supplies**".

Page 2, line 9, after "purchases" insert "**of property and supplies**".

Page 2, line 26, after "bids" insert "**of property and supplies**".

Page 4, line 27, after "offers" insert "**for property and supplies**".

Page 6, line 9, delete "**and**".

Page 6, line 10, delete "." and insert "**; and**".

Page 6, after line 10 , begin a new subparagraph and insert:

(3) school corporations.

(Reference is to HB 1266 as printed January 30, 2004.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred House Bill No. 1266, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 29.

Page 4, delete lines 4 through 28.

Page 4, delete line 42.

Delete page 5.

Page 6, delete lines 1 through 6.

Page 6, delete lines 38 through 42.

Page 7, delete lines 1 through 30.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1266 as reprinted February 5, 2004.)

FORD, Chairperson

Committee Vote: Yeas 9, Nays 0.

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